
1999 Wis Eth Bd 10
LOBBYING AND LOBBYISTS

The Ethics Board advises that a lobbyist not form an investment club with legislative employees or agency officials.

Facts

- ¶1 This opinion is based upon these understandings:
- a. You are a lobbyist.
 - b. You and others are contemplating the formation of an investment club.
 - c. A number of others are legislative or agency employees.
 - d. The investment club will be a general partnership that will invest in stocks.
 - e. Each month the members of the club will contribute a set amount of money to invest.

Questions

- ¶2 The Ethics Board understands your questions to be:
1. May a lobbyist become a member of the investment club?
 2. May a member of the club who becomes a lobbyist continue as a member?
 3. Does the Ethics Code or lobbying law impose other restrictions on who may join the club?

Discussion

¶3 Wisconsin's lobbying law, §13.625, *Wisconsin Statutes*, is the provision most pertinent to your question. Reduced to its elements, that statute provides

No lobbyist
May furnish to an employee of the legislature
Anything of pecuniary value, and

No employee of the legislature
May accept from a lobbyist
Anything of pecuniary value.¹

¶4 A purpose of the lobbying law is to draw a clear line barring private economic transactions between employees of the legislature and lobbyists, who are paid to try to influence legislative action.²

¹ Section 13.625(1)(b) and (3), *Wisconsin Statutes*, provides:

13.625 Prohibited practices. (1) No lobbyist may:

(a) Instigate legislative or administrative action for the purpose of obtaining employment in support or opposition thereto.

(b) Furnish to any agency official or legislative employee of the state or to any elective state official or candidate for an elective state office, or to the official's, employee's or candidate's personal campaign committee:

1. Lodging.

2. Transportation.

3. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may make a campaign contribution to a partisan elective state official or candidate for national, state or local office or to the official's or candidate's personal campaign committee; but a lobbyist may make a contribution to which par. (c) applies only as authorized in par. (c).

(3) No candidate for an elective state office, elective state official, agency official or legislative employee of the state may solicit or accept anything of pecuniary value from a lobbyist or principal, except as permitted under subs. (1)(b)3 and (c), (2), (4), (5), (6), (7), (8) and (9). No personal campaign committee of a candidate for state office may accept anything of pecuniary value from a lobbyist or principal, except as permitted for such a candidate under subs. (1) (b) 3 and (c), (2) and (6).

² See 1999 Wis Eth Bd 4, ¶8; 1997 Wis Eth Bd 20, ¶4; 1996 Wis Eth Bd 7, ¶4, n.24; 1992 Wis Eth Bd 5, ¶4.

The lobbying law's prohibition applies whether or not an official furnishes items or services of equivalent value to a lobbyist in exchange for the lobbyist's furnishing of money to an official. 80 Op. Atty. Gen. 205 (1992) (§13.625 does not allow fair value compensation of services by a principal to an official covered by the lobbying law); 77 Op. Atty. Gen. 160 (1988); 1999 Wis Eth Bd 6, ¶3; 1999 Wis Eth Bd 4, ¶7.

¶5 A lobbyist and an employee of the legislature may be members, simultaneously, of a variety of civic and social service clubs, charitable and religious societies, neighborhood associations and the like. Nevertheless we recommend that you not form an investment club with a legislative employee.

¶6 Unlike the many broadly based organizations to which we just alluded, which draw their members from many walks of life and are not organized around a core of either lobbyists or legislative employees, the core of the enterprise you have asked about is precisely the people at whom Wisconsin's lobbying law and Ethics Code are addressed. Moreover, an investment club is primarily concerned with economic gain -- precisely the type of activity that the lobbying law addresses.

¶7 There are, also, practical reasons for not pursuing the plan you have asked about. Both legislative employees and lobbyists can perform their jobs with greater credibility and freedom of action if they maintain arm's length relationships unencumbered by personal financial obligations. In addition, inclusion of both lobbyists and legislative employees in the investment club invites difficulties in the club's operations.³

¶8 The affiliations of an investment club's members are likely to change in unforeseeable ways. Initial investors who began as legislative employees may migrate to the private sector so that the club may count only one or two state employees among its number. A member of the investment club may undertake lobbying in connection with a private sector job subsequently acquired. We cannot say that Wisconsin's law prohibits all such circumstances; nor without knowing more, can we say such circumstances are permitted. In general terms, if the club includes both lobbyists and state officials governed by the lobbying law, it is advisable that neither group constitute a substantial portion of the members.

Advice

¶9 The Ethics Board advises that you not form an investment club with legislative employees or agency officials.

WR1064

³ You have asked a number of other questions that pertain to operation of the investment club if the club is formed with both legislative employees and a lobbyist. Because we have recommended that the investment club's initial membership not include both lobbyists and legislative employees, we do not address these questions in detail. But a lobbyist may not furnish anything of pecuniary value to a legislative employee or agency official, whether it be hospitality extended at an investment club meeting, or contributions made as a token of appreciation to an investment club officer for time devoted to administering the club's affairs.